DEPARTMENT OF STATE

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ARMS TRANSFER POLICY

Statement of Issue

The arms transfer policy, established by PD-13 on May 19, 1977, had these elements:

-- Six qualitative controls governing all sales unless the President personally makes an exception. (NATO, Japan, Australia and New Zealand are exempt.)

-- An annual quantitative ceiling on weapons and weapons-related sales to the non-exempt countries.

-- A goal of seeking multilateral cooperation. An underlying premise was that the US should take the lead in promoting arms transfer restraint worldwide.

The qualitative controls included restrictions on (1) our being the first supplier to introduce advanced weapons into a region; (2) sale of weapons before operational deployment with U.S. forces; (3) modification of advanced weapons solely for export; (4) coproduction of significant weapons; (5) retransfer requests; and (6) actions by USG personnel or manufacturers which might promote the sale of arms abroad.

Congressional origins: Some PD-13 elements, such as the control on third country transfers, stem from the requirements of existing law. Congress had also stated its desire that the U.S. explore the possibilities of multilateral cooperation with other suppliers and recipients.

Policy Application: The policy applies to all transfers of arms, most of which are consummated under the FMS program (i.e., government-to-government sales) coordinated under the aegis of the Arms Export Control Board (AECB). The FMS program is an integral part of our foreign policy relationships with most of our friends and allies. Decisions on arms transfers are related to the totality of our interests in a given country and region. The qualitative controls serve primarily as guidelines in the analysis of FMS cases and the President has made exceptions when necessary to permit FMS sales promoting U.S. interests that would be otherwise prohibited by the controls. The quantitative ceiling never actually cancelled a sale and became progressively irrelevant. (In the last two fiscal years, sales under the ceiling never approached within $2-3 billion of the limit.)

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Multilateral Cooperation: The effort to achieve multilateral cooperation was not successful. The allies were not interested and neither the USG nor they were willing to proceed without Soviet cooperation. The last conventional arms transfer negotiations with the Soviets were in December, 1978 and this is not an active issue.

Others' perspectives toward the policy: Initial interest in the public and Congress has waned as restraint appeared less attainable and events produced a more confrontational world situation. A number of industrial and some Congressional critics have consistently regarded the policy as too restrictive toward arms sales. Though most accept that actual practice has never been as extreme as originally anticipated, and though exceptions have been granted to transfer arms where U.S. interests were served, the general view is that the sales promotion restrictions should be modified. At the same time there is continuing Congressional concern about unrestricted sale of advanced or sensitive military equipment.

Time Constraints - First 90 Days

Since arms transfers represent a major component of present Administration foreign policy, the Congress, industry, allies and friends will be looking for early indications of how the new Administration intends to approach arms transfers. All agree on the importance and utility of having a publicly stated policy by the new Administration to:

-- inform the private sector of government goals, objectives and criteria that affect corporate decisions; and

-- inform and assure the Congress and the public that the USG has a coherent and considered approach on arms transfers.

What We are Doing

Current cases are being processed under the present policy. Based on the experience of four years, the Arms Export Control Board planned to review the present policy and propose modifications. A planned reassessment has been deferred until the new Administration but there is interagency consensus that the ceiling no longer is useful and should be dropped. Other areas identified for review were the constraints on sales promotion and coproduction.